

Town Meeting



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What Does Freedom of Speech Mean Today?

Moderator, CLARENCE DECKER

Speakers

JENKIN L. JONES

BENJAMIN ROTH



—COMING—

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THE SPEAKERS' COLUMN

JENKIN LLOYD JONES—Editor of the Tulsa (Okla.) *Tribune*. Born in Madison, Wisconsin, in 1911, Mr. Jones received his Ph.B. from the University of Wisconsin in 1933. His entire newspaper career has been spent with the *Tulsa Tribune*, first as a reporter and columnist (1933-36), then managing editor (1936-38) and associate editor (1938-41). He has been editor for the past twelve years. During World War II, Mr. Jones served as a communications officer in the U.S.N.R., and took part in the Okinawa and Iwo Jima campaigns. He is a director of the Tulsa Chamber of Commerce and a member of the American Society of Newspaper Editors.

BENJAMIN ROTH—A St. Louis attorney, Mr. Roth has been executive secretary of the St. Louis chapter of the American Civil Liberties Union for the past two years. Prior to that he was associated with the United States Department of Justice's Alien Enemy Control Unit. During World War II, he was a combat intelligence officer and a legal officer in a B-29 wing on Tinian Island in the South Pacific.

Moderator: CLARENCE DECKER—President of the University of Kansas City, Kansas City, Mo.; former Assistant Director for Far East for the Mutual Security Administration. Dr. Decker was born in Sioux City, Iowa, in 1904, received his A. B. from Carleton College in 1925 and his Ph. D. from the University of Chicago in 1928. He has taught at North Dakota, DePaul and Northwestern Universities. From 1929 to 1931 he was Professor of English at Wesleyan University. Dr. Decker traveled extensively in Europe from 1931 to 1933 and studied at the University of Berlin. Returning to this country, he became Chairman of the English Department at University of Kansas City and has been President there since 1938. Dr. Decker is a Special Representative of the American Association for the United Nations in which capacity he traveled through Europe and Asia as a member of "Town Meeting's" World Tour.

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What Does Freedom of Speech Mean Today?

Moderator Decker:

Good evening, friends. This is Clarence Decker welcoming you to America's Town Meeting. Our subject tonight, "What Does Freedom of Speech Mean Today?" Our speakers, Jenkin Lloyd Jones and Benjamin Roth. I'll tell you more about our discussion in just a moment.

Announcer:

Tonight, your Town Meeting is in its Midwestern tour in North Newton, Kansas, on the campus of Bethel College, the oldest Mennonite College in America. Our broadcast is a feature of the extensive program lectures and musical events offered by the College to its students and townspeople, many of them sons and daughters of early settlers who brought hard-winter wheat to America. Bethel College was founded in 1887 and is a full four-year co-educational liberal arts college which aims to provide a well-balanced program of study, work, worship, and play in a wholesome Christian environment.

Its students come from 20 states and eight countries and its faculty members have taught or studied in 60 different colleges and universities in America, Europe, and the Orient. The Bethel College Choir, known as the Mennonite Singers, made a concert tour of Europe this summer. Bethel College has no sororities or fraternities. It maintains a democratic family spirit which aims to overcome barriers of race, class, and creed. Now to preside over our discussion, here is Dr. Clarence R. Decker, President of the University of Kansas City. Dr. Decker. (*Applause*)

Mr. Decker: It is appropriate that we discuss our question, "What Does Freedom of Speech Mean Today?" on the campus of Bethel College. Four hundred years ago, in Switzerland and Holland, the forefathers of Bethel established a simple faith, teaching Christian democracy, separation of church and state, and freedom of religion. For this they suffered persecution in many lands, and thousands of Mennonite martyrs accepted the penalty of death rather than renounce their faith.

Today we are concerned more about political than religious freedom. Three weeks ago yesterday was Bill of Rights Day. It was not a national holiday, there were no wild or even sober celebrations. It is doubtful that more than a handful of Americans remembered that 160 years ago 10 amendments, popularly known as The Bill of Rights, were added to our Constitution. The first amendment reads in part, "Congress shall make no law abridging the freedom of speech or of the press." The phrase is categorical, unqualified, absolute. Yet as in any well-governed society we have exercised the right and duty to prohibit certain forms of speech: libel, slander, sedition, and treason, words that incite crime and violence.

Nonetheless, in spite of some failings along the way, the American tradition for over 125 years has stressed freedom, not restriction, of speech. Then came World War I. Many persons were accused of obstructing the war effort and sent to jail. A liberal justice of the United States Supreme Court, Oliver Wendell Holmes, handed

down a famous decision reformulating the test of freedom of speech. It is known as the principle of a clear and present danger. And now that we are engaged in a cold and hot war against communism with its powerful weapons of infiltration, subversion, and conspiracy, we are worried about our national security, about our clear and present dangers, and the stress, it seems to many, is on restriction rather than freedom of speech.

Our concern expresses itself in the prosecution of spies and traitors through the traditional judicial processes utilizing the writ of habeas corpus, jury trials, safeguards against self-incrimination. But it also expresses itself in loyalty oaths, attorney-general lists, McCarran acts, administration trials by rumor, guilt by association, character assassination. There are those who believe that while some of our methods may be regrettable, they are the necessary evils in our life and death struggle against a ruthless communism. But there are others who believe that, by restricting the freedom of those we disagree with or disapprove of, we weaken our democracy and embrace the methods and morals of communism itself.

These, of course, are the extreme positions, but the core question remains: "When does freedom of speech become a clear and present danger?" Our first discussion leader this evening is Jenkin Lloyd Jones, editor of the *Tulsa, Oklahoma, Tribune* which he has served for almost 20 years. During World War II, he was a communications officer in the Navy and took part in the Okinawa and Iwo Jima campaigns. He is the director of the Tulsa Chamber of Commerce and a director of the American Society

of Newspaper Editors. What does freedom of speech mean to you? Mr. Jones.

Mr. Jones: Thank you very much, Dr. Decker. My position on this question is very simple. Freedom of speech, insofar as it does not jeopardize the right of the American people to the security of themselves and their cherished institutions, is a very holy right. We should cherish it. We should guard it jealously from assault, assault both from the far left and the far right. The force of law should never be directed against any man who would *not* destroy the liberties of the people and who does *not* seek to incite crime and violence. He should never be deprived of his property by an edict of the court; he should enjoy these guarantees no matter how unpopular his position may be. But freedom of speech does not mean freedom from unpopularity.

It does *not* mean that other people do not have a right to disagree with you. If you insist upon the right of speaking as you please, you must grant to other persons the right of talking back to you, of criticizing your position, of pointing a finger of scorn if they choose at what you stand for. Not only can you *not* require other people to approve of what you say or hold their peace, but neither can you require other people to pay you a salary for doing what they do not approve of.

We have recently heard a rising crescendo of complaints from college professors. Many of these gentlemen a few years ago were blithely characterizing persons who took opposing views as fascists and reactionaries. Now that the philosophies of some of these professors have fallen somewhat out of

favor, they are being attacked in turn. Some irate citizens are calling them left wingers and fellow travelers. Legislators are investigating them. Some colleges and universities at last are quietly dropping them from their faculties. Now these pedagogues have a right to defend themselves. They have a right to talk back, to answer the charges point by point, but, instead, we hear too much blanket use of the word pictures—thought control and witch hunt.

The attitude of these gentlemen too often seems to be that if they are not guaranteed lifetime jobs, freedom of speech is shattered. I think this is tortured reason. I don't believe that any professor has a right to tell the board of trustees of a privately endowed college or the people as a whole, in the case of a state university, that they must keep him on the pay roll whether they like him or not. This is a very intriguing subject. This is a subject not of blacks and whites, but of varying shades of gray. This is a subject we're not going to solve by catch phrases and formulaized thinking. Every case is worth its own consideration. No college should be limited in its search for truth to monetary points of view of the Chamber of Commerce or the Rotary Club or the Epworth League or the Knights of Columbus.

In the search for truth, many scholars will always be ahead of the parade and we shall listen carefully to what they have to say, but to *destroy*, as some would apparently seek to do, the right of persons to disagree with scholars and to eliminate for these persons their privilege of disemploying teachers who work against the people who employ them violates

an even more fundamental right. I hope that in the discussion tonight we can dispense with glittering generalities and get down to cases. (*Applause*)

Mr. Decker: Thank you, Mr. Jones. Those are rough words, especially harsh on college and university professors, and I suspect before the evening is over that a few of them in this hall will talk back. Our second discussion leader is Benjamin Roth, St. Louis attorney, who has served for two years as the Executive Secretary of the St. Louis Civil Liberties Committee. He was formerly with the Alien Enemy Control Unit of the United States Department of Justice. During the war, he was a combat intelligence officer and a legal officer in a B-29 wing on Tinian. What does freedom of speech mean to you, Mr. Roth?

Mr. Roth: Perhaps the easiest way to answer that, Dr. Decker, on this program is to say, well, we're *having* the program. The mere fact that this college and the network can let Mr. Jones and me air our views shows that we do enjoy a great deal of freedom. I think we agree, though, that our goal in this country is security, not the security which merely means secrecy, what we called in the army security of information. We want the real security from attack and rebellion which comes from the tremendous and growing flow of our national life. The question is how to preserve and increase that flow. My point this evening is that we can only hinder the flow by hit or miss attempts to regulate ideas and talk.

Certainly some ideas do harm. Urging an unjustified strike, urging seizure of property, urging the busting of unions, all hurt the

country. But stopping the talk does even more harm. You can't just stop bad talk. When you stop any talk, you stop a great deal of it. Let's see how that works. Perhaps an example from another field will point up the problem. In St. Louis, we have a bad traffic situation. Accidents have killed many people. In the last 20 years or so the city tried a solution. Every time an accident occurred a new stop sign was put up. The aldermen said, now it will be against the law to drive recklessly at that intersection.

The result has been really dreadful. Those who sped before now speed through the stop signs and kill the unwary who think the signs bring protection. The law-abiding driver who used to drive at a steady, moderate speed, now either drives through the stop signs with the former speeders or else goes through the city with a jerking motion, stopping at each corner and cursing as he goes. More serious than this, the whole piecemeal, solve-it-by-another-law method has completely disrupted traffic. It can't move in and out of town. Experts tell us that if we don't take action to repeal these laws soon, the center of the city will die. I think the comparison is clear.

In the field of free speech, we've seen evils and we've hit at them piecemeal by loyalty oaths, censorship, Congressional investigations, deportations and boycotts. We've avoided some harm to the country, but scientists, ministers, government officials and teachers agree that far greater harm has been done. The result has been that while those who oppose us dare to break the laws or find ways around them, the law-abiding are bothered and even disgraced by investiga-

tions and constant barriers to thought and are hindered in speaking their minds. If this continues, the flow of ideas, of inventions, will stop like the traffic in St. Louis, and this country, once great, will weaken and rot from lack of new life. (*Applause*)

Mr. Decker: Well, thank you, Mr. Jones and Mr. Roth. I want to get you two gentlemen around the microphone. You are both for freedom of speech, I see from your addresses and your opening remarks, but I suspect that you don't both interpret the extent of freedom of speech in exactly the same way. I wonder, Mr. Jones, if you have a question to ask Mr. Roth.

Mr. Jones: Well, it seems to me that if Mr. Roth and I come to blows it will not be over a matter of principle but, as you say, over a matter of degree. Now, Mr. Roth, being a distinguished young lawyer, is well aware of the Holmesian doctrine of the clear and present danger in which Justice Oliver Wendell Holmes . . . I think he said that a man should have freedom of speech but he should not have the right to cry fire in a crowded theater, particularly when there is no fire.

I think we would all agree that there is a point which freedom of speech, irresponsible speech it may be, can create a danger that requires it to be regulated. I wonder, Mr. Roth, if you can give us some sort of definition of exactly where you think that point is.

Mr. Roth: Well, Mr. Jones, this may be cheating slightly but I brought along an authority on this by Justice Brandeis. In a case of *Whitney against California*, Justice Brandeis set out that line. He

said that in order to justify the suppression of free speech there must be three things. First there must be a reasonable ground to fear that serious evil will result. Second, there must be reasonable ground to believe that the danger is imminent—not that it's far in the future. And third, there must be reasonable ground to believe that the evil to be prevented is a serious one, not just a minor one. Now if those three rules are complied with, you avoid a great deal of unnecessary suppression. You won't go after minor matters; you won't go after far-in-the-future dangers; and you won't go after people who, although they would like very much to cause harm, have no reasonable expectation of being able to bring it about.

Mr. Decker: But, Mr. Roth, if a moderator may interject an observation here, I think those are further tests of the current present danger, but we still want to know what's clear and what's present and we want to know when these three tests are really in operation. How do you actually decide when there is a clear and present danger, even by those three tests?

Mr. Roth: Well, that, of course, is a matter to be judged in each case and that was a great deal of the discussion, it took up a great deal of the discussion of the Supreme Court in the recent communist cases. The Dennis case was the name of it. The question there is whether the judge or the jury should decide whether a danger was a great one, whether it was an imminent one. The majority of the court said that that is a matter for judges to decide, apparently from their common knowledge.

Mr. Decker: In other words,

there isn't any such thing as an absolutely mathematical formula. We still are down to human nature; we have to know when our country is really threatened. Well, now I wonder if we can get down to some fairly specific instances of freedom of speech and the possibility of its being jeopardized. Did you have a question, Mr. Roth, that you wanted to ask Mr. Jones?

Mr. Roth: Well, I did have a question on his opening statement. I am concerned somewhat by his statement and perhaps the moderator was too.

Mr. Decker: The moderator is neutral.

Mr. Roth: The moderator is neutral and is a university professor and perhaps was concerned by Mr. Jones' idea that university professors shall hold their jobs only so long as their employers, the board of trustees or the president, I take it, feel that they express ideas which are in agreement with the president and the board of trustees. Is that your view, Mr. Jones?

Mr. Jones: What do you want to do, hire them for 20-year terms?

Mr. Roth: Well, the custom, I understand, is that a professor, once he has become one is hired for life, that he has tenure.

Mr. Decker: I think the problem is this. Who does or what does a college or university represent? I think that the University of Kansas, for example, is to represent *all* the people of the state of Kansas and, therefore, to try any university professor on the grounds of what one group might think about it would no longer keep the institution representative of the entire people.

I think Bethel College represents, if I may say so (I don't want to get the very eminent president who is sitting at my side here into any difficulty), I am sure that it represents the church that founded it and its board of trustees, but also I think it represents a very large section of this community and it has a responsibility to those people. So I wonder in this specific case whether the particular beliefs of any specific group should be the final test. Do you really believe that, Mr. Jones? What about a newspaper? Shouldn't your newspaper represent the entire people of Tulsa or only the stockholders?

Mr. Jones: The newspaper should represent the people who run the newspaper. The honest way to run a newspaper is to say what you think. If the people don't like it they can read some other newspaper. Now may I ask you a question, sir? Very well. All right if I can't ask you a question, I'll ask Mr. Roth.

Mr. Decker: Yes, ask Mr. Roth.

Mr. Jones: You say that the people of a state, for example, do not have a right, any particular group of people in the state do not have a right, to exercise any control over who should be hired in a state university. Is that your position?

Mr. Roth: No, no. I said that the university in the long run must represent all the people in the state and the major interests of the state.

Mr. Jones: The major interests. Now, we're getting somewhere.

Mr. Roth: And the minority interests must not be forgotten.

Mr. Jones: The minority interests must not be forgotten. All right. Would you keep on the

staff of The University of Kansas a professor of sociology who preached free love in spite of the fact that less than a minuscule percentage of the people in Kansas believe in that?

Mr. Roth: I would not, because it's against the law of the land. I think that polygamy was ruled out along with free love a long time ago, so it's absolutely illegal. (*Applause*)

Mr. Decker: Mr. Roth, do you have a question to ask Mr. Jones?

Mr. Roth: Well, I wanted to add something on this problem of the tenure of professors. In my opening statement, I tried to point out that you *do* solve some problems by firing a professor who has ideas that may be harmful to the country but what you have to remember is that you do even greater harm to your university. Look at the University of California when it lost many of its professors, cut out as many as 50 of its courses because it started out on a very ill-advised program of loyalty oaths and almost wrecked the university. Now they probably did some good, I don't know; but they did an immense amount of harm by the same program, and that is my objection.

Mr. Decker: Do you want to comment, Mr. Jones?

Mr. Jones: I think that's a very good objection, of course. But I'd like to get on back to this matter of a true and present danger. It seems to me very interesting, Mr. Roth, you as the St. Louis Director of the American Civil Liberties Union, do you feel that in general the Civil Liberties Union recognizes the point at which there is a clear and present danger?

Mr. Roth: Well, I have to put in a short warning that I am not

tonight speaking for the American Civil Liberties Union. But in my opinion, yes, we do very definitely recognize that such a point exists. We, of course, recognize the obvious no crying of fire in theaters and much more we recognize you shan't incite to an immediate riot but the line should be, can the matter be threshed out by public opinion before the danger is going to mature? If so, rely on public opinion.

Mr. Decker: Mr. Jones, I have to ask you to wait for just a few minutes, because out of this grand audience of over 2,000 people we have a great many questions that they want to ask you. But I have to interrupt the program for a moment or so to talk about a related matter. As most of you know who have been listening to the Town Hall programs every week, listeners can participate directly by submitting their questions to the speakers. And we want to thank our listeners who sent us their excellent questions for tonight's discussion.

It is difficult, of course, choosing the most appropriate from the many we have received. Next week, another complete 20 volume set of the American People's Encyclopedia will be sent to the listener who sends on a post card the most timely question. Mail your questions to Town Meeting Questions, New York 36, New York. Now this week the selected question comes from Clarence Zeisler,

214 South Union Avenue, Whittier, California, and this is his question. I'm going to ask both of our discussion leaders to make a very brief comment on it. This is the question, and I think I'll ask Mr. Roth first and then Mr. Jones. Mr. Zeisler asks: "Is it wise to give freedom of speech to an individual whose ideas, if carried out, would destroy freedom of speech?"

Mr. Roth: I'm going to answer that with a qualified *yes*. I would qualify it in this way; that if the idea is put forward in such a way that it can be debated, I would count on the common sense of the people of this country to reject it, and I wouldn't feel it a real danger.

Mr. Decker: Do you agree, Mr. Jones?

Mr. Jones: I would say that if a person advocates a political system in which freedom of speech disappears that is undoubtedly his privilege; but if he advocates a system of violence to overthrow the ratification of the wishes of the American people, a system of government in which we do have freedom, and to substitute therefor a system of government in which we do not have freedom, then we have a perfect right to prosecute him.

Mr. Decker: Thank you, Mr. Jones and Mr. Roth. Now we'll go to the audience. Here is a question for Mr. Jones.

QUESTIONS, PLEASE!

Man: Mr. Jones, do we have a one-party press in America?

Mr. Jones: Well, that's a very interesting question. You had about 75 to 80 per cent of the newspaper circulation in the United States in the last election that supported General Eisenhower. That situation has been pretty much on the Republican side for a number of years. Yes, to that extent you had a preponderance of newspapers that went for one party. Now, those newspapers went for one party because they thought it would be good for the United States to elect one candidate. What law do you suggest that would require a certain percentage of newspapers to go to the other candidate?

Mr. Decker: I see Mr. Roth is getting up here. He doesn't like that at all.

Mr. Roth: You know, I would like to ask a further question. Mr. Jones says the press has been far more Republican through the last 20 years than have the people. Now does Mr. Jones feel that that is because newspaper publishers are more intelligent, or what reason does he give for this? (*Applause*)

Mr. Jones: Let me give you two theories and you can take your choice. The first theory is that newspaper publishers are grasping capitalists who have no interest whatsoever in the welfare of the general public and therefore elected to force down the throats of the American people by biased propaganda a Republican candidate. And the other possible answer is that newspaper publishers, recognizing some of the possible consequences of the

system of the inevitable debt, a system of makeshift government, a system of burgeoning bureaucracy, have perhaps recognized a little earlier than the general public the evils in the thing, and, therefore, were a little bit ahead of the general public in their distaste for it.

Mr. Decker: Mr. Roth, we don't want to carry this on too long, but do you think we have a one-party press in America? Very briefly.

Mr. Roth: Well, I agree with Mr. Jones. I think the statistics are a little more strongly Republican than he said, but I do feel that the press has been, predominantly, not only in its editorial but also in its news columns, Republican.

Mr. Jones: Now may I ask this question? This happens to be attacking my business and it's very dear to my heart. Do you believe that because, let's say four to one, the American Press is Republican, that it was incapable of giving an objective news picture of the campaign?

Mr. Roth: I don't know whether it was incapable of doing so; I do think that the press failed to do so (*Applause*)

Mr. Decker: All right, now I'm going to go into the audience.

Man: Mr. Roth, in view of the communist threat, what restrictions do you think absolutely unnecessary to preserve our civil rights and yet adequately protect the United States?

Mr. Roth: I feel that the threat of communism, the threat that we should guard against, is the old threat of sabotage and espionage and that should be done by a well

trained, well-organized police force—the Federal Bureau of Investigation. The restrictions on freedom of speech show a distrust of our own people, feel that if they aren't protected they will be convinced by the communists, and I just don't think that's true.

Mr. Decker: Thank you, Mr. Roth, and here is a question for you, Mr. Jones.

Man: Mr. Jones, do you favor a black list in radio and television today, and if so, why?

Mr. Jones: Well, I don't like the term "black list." They seem to imply the totalitarian method of going about punishing people. Do you mean that a sponsor of a radio program or a television program does not have the right not to hire a certain person?

Mr. Decker: I think Mr. Roth would like to make a comment on that. Mr. Roth.

Mr. Roth: Well, I thought I'd gone into the question for Mr. Jones in a specific example of what I saw last week, that fantastic occasion when Mr. Kaufman was thrown off a program for saying that he was tired of hearing *Silent Night* used to advertise patent medicines and soap. What do you think of goings-on like that when the advertisers can dictate to the radio stations or perhaps to your newspaper the people who can be used?

Mr. Decker: I'm going to make that a rhetorical question so that we can go back to the audience. You and Mr. Jones can fight that out after the program is over. Here is a question for you, Mr. Roth.

Man: Mr. Roth, to what extent could universal military training jeopardize freedom of speech?

Mr. Roth: I'm afraid I'll have to

duck that one. That's something I just haven't thought on, and I'm sure it's one that's gotten a lot of thought out here. I'm sorry.

Mr. Decker: Do you have another question? The lady in the brown hat has a question.

Lady: Mr. Roth, would you comment on the action of the board of education of New York City in banning the magazine, *The Nation*, from all the libraries of the school?

Mr. Roth: I think that was one of the strangest and perhaps the most damaging actions that we've seen for awhile. A similar occurrence happened in Mr. Jones' state, in Oklahoma, in which the librarian was dismissed for having on the shelves magazines that were considered subversive. If libraries aren't to have well-rounded information we might as well close them up. Now *The Nation*, incidentally, is an old line, and certainly non-communist, magazine.

Mr. Decker: I have a question for Mr. Jones.

Man: Mr. Jones, is our freedom of the press being curtailed by censorship and propaganda controlled by the federal government?

Mr. Jones: Well, there's a big fight, of course, going on among editors against the effort by the federal government to hide certain information which we think is of no interest to the enemy at all and of great interest to the taxpayers. And that's going to be a fight that you're going to have and you've always had with governmental bodies for hundreds of years; but I would say now that the press, generally speaking, is very well satisfied with the information it can get, that the federal government has not thrown any important roadblocks into it. Actu-

ally, where there is an effort to hide information that the people should have, the county court house is likely to be a great deal more guilty than Washington.

Mr. Decker: Thank you, Mr. Jones. Dr. Wedel, the president of Bethel College, has a question for Mr. Roth.

Dr. Wedel: Why does the American Civil Liberties Union defend the right of communists to teach in American universities?

Mr. Roth: That's a question that I have difficulty explaining. I believe that the decision should be made this way. The mere fact that a man is a communist should not, as such, bar him from teaching. However, if the administrator of the college finds that an individual teacher is misusing his position as a teacher then he should be dismissed. Now, I think the administrators will have sufficient information on their faculties to protect themselves without making blanket bans.

Mr. Decker: There's a question for Mr. Jones.

Man: Mr. Jones, should there be more restrictions on radio commentators and newspapers who abuse the right of freedom of speech by false half-truths and misrepresentation of the news?

Mr. Jones: Well, if it's false enough, of course, you can always sue us for libel, and sometimes you can collect. If there is a question about whether the matter is false or not, you are going to have to set up a panel that decides what the truth is, and this truth panel is going to have to control the radio and the press. Do you have any good nominations for the truth panel?

Mr. Decker: A question for Mr. Roth.

Man: Mr. Roth, is there a technique by which freedom of speech can be safeguarded from abuse and misuse to keep it dignified and trustworthy? I mean that name-calling and slandering, and that sort of thing, be out.

Mr. Roth: Well, I know of no general technique that can do this. More programs like this, pointing out that name-calling and slander are harmful to the country, may by education stop such things. I don't think that a law will do it.

Mr. Decker: A question for Mr. Jones.

Man: Mr. Jones, how can America retain its position as a leading military power and not undermine freedom of speech?

Mr. Jones: I don't think you have to have a police state in order to be militarily effective. We certainly were the most militarily effective nation in the world in the last war, we didn't have a police state.

Mr. Decker: Now Mr. Roth, question.

Man: Mr. Roth, why does The American Civil Liberties Union defend the right of an organization such as the White Circle League in America to distribute race hatred literature in America?

Mr. Roth: That case was a case brought under the Illinois Group Libel Law against a man named Beauharnais. That law said that any person who said bad and untrue things against a group would be guilty of a crime. It is the position of the ACLU that such a law can be used to bar criticism of any group and, therefore, can be made a limitation on freedom of speech. Rather, therefore, than have such possible limitations, the law was opposed, even though we, of course, disliked heartily the things that Beauharnais had said.

Mr. Decker: We have a question, from the lady in the purple dress, for Mr. Jones.

Lady: Mr. Jones, does your newspaper support or oppose the Oklahoma Loyalty Oath recently declared unconstitutional by the United States Supreme Court?

Mr. Jones: We opposed the Oklahoma Loyalty Oath, and we did it for this reason. Any loyalty oath is a net that catches the wrong kind of fish. The real subversives, the real spies, will lie all over the place, and they will never admit that they were ever communists. (Applause) There are a certain number of very sincere, albeit I think misguided, honest Americans who think that that is interference with their freedom of conscience, and they will refuse to sign such a loyalty oath, and they are in no sense dangerous to the American people. We can understand why the people take that action because they have been desperately disturbed at the traitors that they have discovered in their midst, but we think the cure was wrong. It doesn't work.

Mr. Decker: Thank you, Mr. Jones. A question for Mr. Roth.

Lady: Mr. Roth, should a person be denied freedom of speech if he is conscientiously opposed to any participation in the war effort, and is sure there is a better way to solve international conflict?

Mr. Roth: No, I don't think that such a person should be denied freedom of speech. In fact, this case that was mentioned in the case question specifically dealt with that problem. Part of the Oklahoma Loyalty Oath was a requirement that one swear that he would bear arms in defense of the country. The Supreme Court said

that that is not one of the essential elements of loyalty to the country.

Mr. Decker: Mr. Jones, I'd like to have you make a comment on the position of the Quakers and other groups who will not bear arms, but who might do other things. How do you feel about it? Do you think everyone should be required to bear arms for his country in case of war?

Mr. Jones: No, I disagree with conscientious objectors, but I believe that if they are willing to do work to support the peacetime economy of the nation in time of war, or to make some contribution to the welfare of the whole nation in its hour of peril, they should be permitted to do that.

Mr. Decker: Here's another question for Mr. Jones.

Man: Mr. Jones, does freedom of speech mean the same thing today as it did to our forefathers?

Mr. Jones: No, we've got a lot more of it. (Applause)

Mr. Decker: Thank you very much. Here's another one for Mr. Jones.

Man: Mr. Jones, why should communists have freedom of speech?

Mr. Jones: They only want freedom of speech in the areas in which they are not in control.

Mr. Decker: Mr. Roth wants to make a very brief comment on it.

Mr. Roth: Yes, I really don't care whether communists have freedom of speech or not for their sake. I would just as soon see all the communists in jail, but for our sake, I think we should not take any group and start saying, "you shan't talk" unless there is a clear and present danger.

Mr. Decker: Here's another question for you, Mr. Roth.

Lady: Mr. Roth, will not silencing communists by arrest, imprisonment, and so forth serve to increase the prestige and power which they have?

Mr. Roth: It's been pointed out any number of times that by suppressing the freedom of speech of any group you urge them to revolution. They can't express themselves and, therefore, they must turn to underground methods, and I think limiting them will increase their chance to explode.

Mr. Decker: Do you want to comment very briefly, Mr. Jones?

Mr. Jones: No, thank you.

Mr. Decker: One more question. Here's one for Mr. Jones, right here.

Man: Mr. Jones, does the presidential campaign prove that we have freedom of speech?

Mr. Jones: From what I heard of it, it certainly did — what I heard of it, anyway.

Mr. Decker: Thank you, Mr. Jones and Mr. Roth, for your discussion of tonight's topic. We want to express our appreciation to Dr. David C. Wedel, President of Bethel College, and its Public Relations Director, Willis Rich, and to the Host Committee which is made up of members of representative groups of the city of Newton. Thanks also to KFDI, the ABC station in Wichita. So plan to be with us next week and every week at the sound of the Crier's Bell.

FOR FURTHER STUDY OF THIS WEEK'S TOPIC

Background Questions

1. How do you define "freedom of speech" in the modern world?
 - a. Does it include freedom of expression for every citizen through every medium of communication? e.g. press, radio, television.
 - b. Does it include freedom of expression in every area of human activity? Or, just in political life?
 2. What is the relationship between free speech and free assembly, free exercise of religion and all of the other rights associated with a democratic society?
 3. Can a free, democratic government limit freedom of speech without destroying itself? Or, is freedom of speech an inherent part of the democratic process?
 4. Should groups advocating the abolition of free speech be granted or denied that freedom? What are the probable consequences of either course of action?
 5. To what extent should the Holmesian doctrine of "clear and present danger" guide the actions of our government?
 - a. Was this test designed to protect freedom of speech in the United States?
 - b. Or, is it a rationalization for those situations in which a person can be rightly penalized for something he says?
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6. Can we insure maximum national security and at the same time preserve our constitutional guarantees and rights?
 - a. Are national security and individual freedom compatible in a period of extreme world tension, large military establishments, big government, and extreme security requirements?
 - b. Is there a danger that we may foster one type of totalitarianism in our efforts to combat another?
7. Have the increasing number of highly publicized administrative and legislative investigations threatened protective safeguards surrounding the guarantee of free speech?
8. How can administrative and legislative procedures be devised to protect the individual in his contact with his government?
9. How do libel and slander laws curtail freedom of speech?
10. Would you favor Congressional action to make slander laws enforceable where individuals are slandered by legislators cloaked with Congressional immunity?
11. Is it true that our tradition of political freedom is being undermined by hysteria about the threat of Communism?
12. Is it true that the "cultural vigilantism" of certain pressure groups has curtailed freedom of speech in education, law, the theater, the press, radio, television and other social fields?
 - a. Are self-appointed censors slowly making "heresy" as well as treason a crime?
 - b. Has refusal to denounce the heresy of others become a crime?
 - c. Is the distinction between words and acts being blotted out of our thinking?
 - d. Is there an increasing tendency to dispense with legal machinery in deciding guilt or innocence?
13. How can we best assure the preservation of our judicial processes and an atmosphere in which they can justly operate?
 - a. Is a lawyer who defends a communist or "heretic" jeopardizing his career?
 - b. Is a person who testifies as a character witness likely to suffer social reprisals?
 - c. Has poor or mistaken judgment become legally incriminating?
14. Have radio and TV been unduly influenced in programming by the fear of criticism from various groups in the community? Are censorship and blacklists used in the operation of these media?
15. Have our newspapers upheld the principle of free speech by giving complete coverage?
 - a. Is the contention that we have a "one-party press" justified?
 - b. Are newspapers hampered by an inadequate concept of newsworthiness?

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VOLUME 15

- No. 2 "Should Minority Groups Exercise Censorship Over Books, Plays and Films?" Henry Epstein, Rev. J. O'Donnell, Morris Ernst, John Mason Brown. (May 10, 1949.)
- No. 6 "What Should Be The Limits On Your Free Speech?" Norman Thomas, Bartley Crum, Rev. G. Bromley Oxnam, Louis Waldman. (Broadcast from Somerville, New Jersey, June 7, 1949.)

VOLUME 16

- No. 2 "Is The American Press Doing Its Job Today?" James B. Reston, Don Hollenbeck. (May 9, 1950.)
- No. 13 "Is Freedom Of Speech Threatened In America?" Abe Fortas, Henry J. Taylor. Guest Moderator: Dr. Clarence Decker. (Broadcast from Nashville, Tennessee, July 25, 1951.)
- No. 14 "Are Teachers Free To Teach?" Dr. Alonzo F. Myers, Rep. Charles J. Kersten. Guest Moderator: Dr. Orville Hitchcock. (Broadcast from Enid, Oklahoma, August 1, 1950.)
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VOLUME 17

- No. 5 "Is Youth Afraid To Speak His Mind?" Max Lerner, Dr. O. Glenn Saxon, Susanne Hoeber, Edward J. Menninger. (May 29, 1951.)
- No. 7 "Have We Failed To Educate For Democracy?" Dr. Thomas K. Sherwood, Dr. Victor L. Butterfield. Interrogators: Lawrence C. Martin, Kenneth Oberholtzer. (Broadcast from Denver, Colorado, June 12, 1951.)
- No. 23 "McCarthyism: Good or Bad?" Rep. Charles J. Kersten, Rep. Richard Bolling. (Broadcast from Durham, North Carolina, October 2, 1951.)
- No. 43 "Are We Losing Our Civil Liberties In Our Search For Security?" Rep. Harold H. Velde, Patrick Murphy Malin. Guest Moderator: Erwin Canham. (Broadcast from Boston, Massachusetts, February 19, 1952.)